IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

Crl.MC.No. 2751 of 2007()

SC.515/2006 of ASSISTANT SESSIONS COURT, MAVELIKKARA
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PETITIONER: ACCUSED
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1. THAJUDEEN, AGED 32 YEARS,
S/O.BASHEER, VEDIYARA BHAVAN, AADHIKKATTUKULANGARA
PALAMEL VILLAGE, ALAPPUZHA DIST.

2. SAIFUDEEN, AGED 24 YEARS,
S/O.JALALUDEEN, YELLUMVILA KIZHAKKATHIL,
AADHIKKATTUKULANGARA, PALAMEL VILLAGE,
ALAPPUZHA DIST.

BY ADV. SMT.A.SALINI LAL

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2751 Of 2007

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Dated this the 13th day of September, 2007

ORDER

The petitioners face indictment for offences punishable, inter alia under Sec.324 and 308 read with 34 IPC. The case has already committed to Sessions court. Consequent to non appearance of the petitioners, warrants of arrest have been issued against the petitioners. According to the petitioners, they are absolutely innocent. The absence of the petitioners earlier was not wiful. In fact there is a case and a counter case. The counter case which was triable by the learned Magistrate has already settled and proceedings closed at the Lok Adalath, with an agreement to settle and compound the offences alleged in S.C.No.515/2006. The offence alleged include compoundable and non-compoundable offences, The offences punishable under Sec.308 IPC, is not a compoundable offence. The petitioners along with de facto complainant/ victim want to appear before the learned Asst.Sessions Judge and pray for composition. They want to request the learned Asst. Sessions Judge not to frame any charge under Sec.308 IPC and to accept the composition or the other offences which are all compoundable. The petitioners further apprehend that their applications for regular bail may not be considered by the learned

Asst. Sessions Judge on merits, in accordance with law and expeditiously. The petitioners therefore pray that appropriate directions under Sec.482 Cr.P.C may be issued in favour of the petitioner .

3. It is for the petitioners to appear before the learned Assistant Sessions Judge and explain to the learned Assistant Sessions Judge the circumstances under which they could not earlier appear before the learned Assistant Sessions Judge . I have no reason to assume that the learned Assistant Sessions Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Assistant Sessions Judge and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Assistant Sessions Judge must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. Needless to say, it shall be open to the petitioners to apply before the learned Assistant Sessions Judge for composition of the compoundable offences. The petitioners shall of course be entitled further to request the learned Assistant Sessions Judge not to frame charges for the non compoundable offence punishable under 308 IPC. Such request must also be considered expeditiously and on merits by the learned Assistant Sessions Judge.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE